

American Rescue Plan Act of 2021 (ARPA)

Coronavirus Local Fiscal Recovery Funds (CLFRF)

State of Kansas Supplemental Frequently Asked Questions (FAQs)

The following topics are applicable to Non-entitlement Units of Local Government (NEUs) in the State of Kansas (SOK).

A. What are NEUs?

- An NEU is a city with a population of less than 50,000. Under federal law, generally, a “metropolitan city” is defined as a city with a population greater than or equal to 50,000. Under the provisions of ARPA, NEUs are Non-entitlement Units of Local Government, or a city that is not a metropolitan city.
- A list of known NEUs, made up of incorporated cities, is posted on the Office of Recovery website [here](#).
- Further determination of eligibility beyond this listing is in process and will be confirmed in future FAQs as well as a final listing on the Office of Recovery website.

B. What are “local governments”?

- For the purpose of the SOK ARPA fund distributions, a “local government” means any SOK metropolitan city (population of 50,000 or greater), a county or a NEU.

C. Are there requirements to prove revenue loss or any other eligibility requirements to receive funds?

- No, experiencing revenue loss is not a pre-requisite for receiving funds. Accounting for revenue loss is one possible use of funds, not a requirement.
- An NEU must not have been excluded or disqualified from receiving federal funds.

D. Can NEUs decline the distribution in part or in full? If so, how do NEUs communicate the decision to decline funds?

- NEUs will be able to decline receipt of the awards in part or in full, by notifying the SOK at recovery@ks.gov and the funds will be added to the SOK’s total grant award. Treasury will be providing a form that the SOK will make available to the NEUs at a later date.

- | | |
|---|---|
| <p>E. Can the NEU choose the distribution payment method (i.e. check or ACH)?</p> | <p>- The SOK will remit all distributions electronically via ACH to ensure timely and trackable delivery.</p> |
| <p>F. How was each NEU's distribution calculated?</p> | <p>- The allocation to NEUs was based on the proportion the population of the NEU bears to the total population of all the NEUs in the SOK, subject to a cap that is not to exceed 75 percent of the most recent budget for the NEU as of January 27, 2020.</p> |
| <p>G. Do eligible Non-Entitlement Units (NEUs) of Local Government have to have a valid DUNS number in order to receive their allocation from the State of Kansas?</p> | <p>- NEUs do have to have a valid DUNS in order to receive their initial allocation of funding from the State of Kansas but per Treasury guidance: "Non-entitlement units must have a valid DUNS number to meet reporting the requirements under the program. If an entity does not have a valid DUNS number, please visit https://fedgov.dnb.com/webform/ or call 1-866-705-5711 to begin the registration process."</p> <p>- In addition to DUNS, NEUs will be required to submit several other pieces of information. A complete list can be found at: https://home.treasury.gov/system/files/136/NEU_Checklist_for_Requesting_Initial_Payment.pdf</p> |
| <p>H. What are some recommendations for efficient and allowable uses to minimize the long-term reporting requirements?</p> | <p>Generally speaking, projects that result in multiple subrecipients and/or vendors will incur greater reporting and compliance requirements. Additionally, the utilization of the revenue replacement and qualified census tract provisions will also require significant administrative and reporting efforts. Use of funding to provide beneficiary payments such as financial relief payments to residents or investments in one-time water and sewer infrastructure will generally reduce the overall administrative workload.</p> |
| <p>I. Do NEUs need to have agreements approved by governing bodies prior to the distribution of funds?</p> | <p>The U.S. Department of the Treasury is requiring that the authorized representative of the jurisdiction sign and return both the Award Terms and Conditions for Non-entitlement Units of Local Government and the Assurances of Compliance with Title VI of the Civil Rights Act of 1964. Treasury does not require that the agreements be approved by governing bodies so it would be up to the local jurisdiction to determine if the authorized representative has the authority to sign or if they need to go to the governing body for approval.</p> |

J. Can cities hire an external consultant to submit the request for funds on their behalf?

The NEUs authorized representative will have to sign the documents but does not need to actually submit the request for initial payment. This is not a competitive application so doesn't necessarily warrant the use of an external consultant but certainly an NEU is free to engage a consultant if that is their preference.

K. Are NEU funds for expenses going forward or can it be used for expenses previously?

The covered or allowable period for this program began on March 3, 2021 so NEUs would be able to reimburse expenses previously incurred back to that date.

The following topics are applicable to all local governments in the State of Kansas (SOK):

<p>1. What are the certification requirements?</p>	<ul style="list-style-type: none"> - For metropolitan cities and counties - In order to receive the ARPA funding allocation a certification (signed by an authorized officer) must be submitted directly to the U.S. Treasury from the metropolitan city or county. The certification shall state that the funding is required to carry out the activities defined in question number 8 below. - For NEUs – An application portal is being established by the SOK for collection of key data and certification agreements. More information will be released soon.
<p>2. How can ARPA funds be used?</p>	<ul style="list-style-type: none"> - ARPA direct funding to state and local governments can be used to: <ul style="list-style-type: none"> i. Respond to the public health emergency with respect to COVID-19 or its negative economic impacts, including assistance to: <ol style="list-style-type: none"> 1. Households, small businesses, and nonprofits 2. Aid to impacted industries (e.g. tourism, travel, and hospitality) ii. Provide premium pay or grants to workers performing essential work during the pandemic. iii. Provide government services to the extent of reduction in revenue due to COVID-19 relative to revenues collected in most recent full fiscal year. iv. Make necessary investments in water, sewer, or broadband infrastructure.
<p>3. Can ARPA funds be used to hire new staff?</p>	<ul style="list-style-type: none"> - Yes, new staff can be hired if their employment meets the criteria described above in question number 8 (e.g. accountants to support with reporting). - The Interim Final Rule states explicitly that recipients may use funds to restore their workforces up to pre-pandemic levels. (pg 120)
<p>4. Are there any restrictions on the use of funds?</p>	<ul style="list-style-type: none"> - Local government may not use funds made available under this section for deposit into any pension fund. With the release of the CLFRF Frequent Asked Questions (FAQ) guidance document by the U.S. Department of Treasury on May 10, 2021, jurisdictions should refer to FAQ number 8.1 for the latest guidance.
<p>5. What is the timeframe for spending the funds?</p>	<ul style="list-style-type: none"> - Funds provided by ARPA are designated to cover costs incurred by December 31, 2024. - Jurisdictions should refer to Treasury FAQ number 6.2 for the latest guidance which indicates that funding must be obligated by December

	31, 2024 but will remain available for expenditure and liquidation through December 31, 2026.
6. What is the timeline for receiving funds?	<ul style="list-style-type: none"> - Funds will be distributed to local governments and the SOK in two tranches (portions): <ul style="list-style-type: none"> i. The first tranche will equal 50 percent of the total allocation and must be issued by the U.S. Treasury within 60 days of bill enactment (March 11, 2021), pending submission of certification by local governments and SOK on the behalf of the NEUs. ii. The second tranche (the remaining 50 percent of the total allocation) is to be released by U.S. Treasury no earlier than 12 months after first tranche payment. - NEUs should receive their first tranche distribution from the SOK by 7/1/21, within 30 days of the SOK's receipt from the U.S. Treasury. As the state understands the Treasury guidance and requirements further there could be a need for the State to request an additional 30 day extension to distribute the funding by 7/31/21.
7. What are the reporting expectations?	<ul style="list-style-type: none"> - The provisions of ARPA require any local government to provide periodic reports to the U.S. Treasury providing a detailed accounting of the use of funds and any other information the Secretary of the Treasury may require. - Any local government that does not comply with any provision of the ARPA will be required to repay the U.S. Treasury an amount equal to the amount of funds used in violation. - Jurisdictions should refer to Treasury FAQs number 9.3 for the most up to date guidance.
8. How is revenue loss defined?	<ul style="list-style-type: none"> - Revenue loss is a reduction in revenue due to COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency. - Jurisdictions should refer to Treasury FAQs 3.1 to 3.9 for the most up to date guidance.
9. What is premium pay?	<ul style="list-style-type: none"> - Premium pay is a form of incentive payment or hazard pay for individuals completing essential services. ARPA states that premium pay can be made up to \$13 per hour, and that premium amount may not exceed \$25,000 with respect to any single eligible worker. - Premium pay can be for public employees or by providing grants to eligible employers that have eligible workers who perform essential work. - Jurisdictions should refer to Treasury FAQs 5.1, 5.2, and 5.3 for the most up to date guidance.
10. What other funding is Kansas receiving?	<ul style="list-style-type: none"> - In addition to approximately \$1B for local governments, Kansas is expected to receive approximately \$1.6B in State funding, as well as \$2.3B in funding for state agencies.

11. Can an entity partner with the state on a project?

- Yes, the SOK will collaborate with cities and counties for projects. Email recovery@ks.gov with any questions or suggestions.
- Monitor the Recovery Office website (<https://covid.ks.gov/recovery-office/>) for forthcoming forms to submit questions and suggestions.

12. What are the major areas of compliance a local government should be considering as planning efforts for spending begin?

- Within the Code of Federal Regulations, Title 2 addresses Grants and Agreements. Specifically, Title 2 → Subtitle A → Chapter II → Part 200 is the link to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Part 200).
- The SOK will provide additional resources and guidance to establish a foundational knowledge of these requirements, but local governments should gain familiarity with these requirements as they begin assessing needs and should leverage a CPA for additional consultation.
- Jurisdictions should refer to Treasury FAQ [9.3](#) for the most current guidance.

13. What are the audit implications for these awards?

- Keep in mind that a non-Federal entity that expends \$750,000 or more during the non-federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of Part 200.
- Jurisdictions should refer to Treasury FAQ [9.3](#) for the most federal current guidance.
- KSA 75-1117 et seq. provides the audit requirements for the SOK. Federal awards are considered in calculating gross receipts and could impact the NEUs audit requirement.
 - i. Any NEU with aggregate annual gross receipts exceeding \$275,000 but less than \$500,000 is subject to an Agreed Upon Procedures (AUP) review.
 - ii. Any NEU with aggregate annual gross receipts exceeding \$500,000 is subject to a regulatory basis or Generally Accepted Accounting Principles (GAAP) audit.

14. What pre-award actions should Kansas Counties and Metropolitan Cities be taking while waiting for the formal launch of the Coronavirus Local Fiscal Recovery Funds (CLFRF) Program?

- Counties and Metropolitan Cities who will receive their allocation of CLFRF Program funding directly from Treasury should take the following actions as soon as possible:
 - o Ensure the entity has a valid DUNS number. If an entity does not have a valid DUNS number, please visit <https://fedgov.dnb.com/webform/> or call 1-866-705-5711 to begin the registration process.
 - o Ensure the entity has an active SAM registration. If an entity does not have an active SAM registration, please visit, [SAM.gov](https://sam.gov) to begin the entity registration or renewal process.
 - o Gather the entity's payment information, including:
 - Entity Identification Number (EIN), name, and contact information
 - Name and title of an authorized representative of the entity

	<ul style="list-style-type: none"> Financial institution information (e.g., routing and account number, financial institution name and contact information)
15. What is a qualified census tract?	<ul style="list-style-type: none"> Qualified Census Tracts are those in which 50% or more of the households are income eligible and the population of all census tracts that satisfy this criterion does not exceed 20% of the total population of the respective area. Qualified Census Tract information can be found at: https://www.huduser.gov/portal/sadda/sadda_qct.html.
16. Are there restrictions on use of funds for mental health and behavioral health?	<ul style="list-style-type: none"> There is flexibility in the Interim Final Rule (the Rule) released by Treasury on May 10, 2021 for administering funds, especially surrounding healthcare related activities. Additionally, one of the focuses on these funds is to lay a foundation in “addressing the systematic public health and economic challenges that may have contributed to more severe impacts of the pandemic among low-income communities and people of color” (p.8). Both behavioral health services and mental health treatment are listed as qualified medical expenses. This can include expenses related to services or outreach to promote access to behavioral health primary care. The Treasury quick reference guide states “behavioral healthcare services, including mental health or substance misuse treatment, crisis intervention, and related services” are an example of approved uses of funds. Additionally, the treasury fact sheet clarifies further that additional services include, hotlines or warmlines, other behavioral health services, an services or outreach to promote access to health and social services (p.4). However, it is extremely important when moving forward with programmatic decision-making that the various aspects of the program are reviewed for eligibility, reviewed to ensure that the CLFRF funds are not duplicating other federal funds, that the appropriate internal controls are put into place to protect the county as they move forward, and that there is a nexus to COVID-19.
17. Are there restrictions on making new businesses (that did not exist prior to the pandemic) eligible for workforce programs (e.g., training, upskilling, direct payments)?	<ul style="list-style-type: none"> There are many factors to consider when designing support structures for small businesses using CLFRF funds. Although aid to small businesses is an allowable expense under 602(c)(1)(A) of the ARPA, this assistance needs to have a nexus to COVID-19. Additionally, Treasury FAQ 14, issued on May 10, 2020, states that “Recipients should maintain records to support their assessment of how businesses or business districts receiving assistance were affected by the negative economic impacts of the pandemic and how the aid provided responds to these impacts.” So, while businesses opened during COVID-19 are not specifically precluded from receiving assistance, they do need to show that they were impacted by COVID-19.
18. Is employment status considered a requirement to access services and	<ul style="list-style-type: none"> No – there is not language stating that employment status is a requirement for accessing services and payments by the county using ARPA funds. Section 2 of the Rule Called “Responding to Negative

payments administered by the county or municipality using ARPA funds?

Economic Impacts” discusses assistance to households and states, “in considering whether a potential use is eligible under this category, a recipient must consider whether, and the extent to which, the household has experienced a negative economic impact from the pandemic. In assessing whether a household or population experienced economic harm as a result of the pandemic, a recipient may presume that a household or population that experienced unemployment or increased food or housing insecurity or is low- or moderate-income experienced negative economic impacts resulting from the pandemic” [\(p.29\)](#). When looking at eligibility, one of the key considerations is if the applicant was impacted by COVID-19, per section 602 of the ARPA.

19. Does water and infrastructure include storm repair? To what extent?

- While the Rule does not include language discussing storm repair, improving resilience of infrastructure is an allowable expense. Page [57](#) of the Rule states, “the types of projects eligible for CWSRF [**Clean Water State Revolving Fund**] assistance include projects to construct, improve, and repair wastewater treatment plants, control non-point sources of pollution, improve resilience of infrastructure to severe weather events, create green infrastructure, and protect waterbodies from pollution.” There is also additional flexibility in what this may look like. The rule states, “each of the 51 State programs established under the CWSRF have the flexibility to direct funding to their particular environmental needs, and each State may also have its own statutes, rules, and regulations that guide project eligibility.” Jurisdictions also have additional flexibility funding infrastructure projects if they take place in qualified census tracts and/or are taking advantage of the lost revenue provisions.

20. Are we limited in administering certain programs only to select Census tracts? If so, how do we ensure proper documentation and compliance?

- Treasury FAQ [2.5](#), as of May 27, 2021, states that treasury will presume eligibility of the following activities if provided in a qualified census track.
 - Addressing health disparities and the social determinants of health, including: community health workers, public benefits navigators, remediation of lead paint or other lead hazards, and community violence intervention programs;
 - Building stronger neighborhoods and communities, including: supportive housing and other services for individuals experiencing homelessness, development of affordable housing, and housing vouchers and assistance relocating to neighborhoods with higher levels of economic opportunity;
 - Addressing educational disparities exacerbated by COVID-19, including: early learning services, increasing resources for high-poverty school districts, educational services like tutoring or afterschool programs, and supports for students’ social, emotional, and mental health needs; and
 - Promoting healthy childhood environments, including: child care, home visiting programs for families with young children, and enhanced services for child welfare-involved families and foster youth

21. What is the deadline for Counties requesting allocations?

- While these activities are not limited from being administered outside of qualified census tracts, it is imperative that the county have clear policies, procedures, and guidelines in place to justify their programmatic decision making, document the eligibility of recipients, and have the proper controls in place to maintain compliance with federal funds.

22. Will entities have to establish bank accounts for these funds that cannot gain interest?

- While there is no specific deadline to request funding allocation, the State recommends Local Governments register and submit request as soon as they are comfortable with their allocation of funds, designation as either an entitlement or non-entitlement community (non-Counties), and have a thorough understanding of the Treasury guidance. It will take up to four (4) days for Treasury to process the request and deposit the funds in the Local Government account. Requesting the funds as soon as possible will give Local Governments time to conduct assessments and develop spending plans as well as be prepared to submit the first interim report to Treasury by August 31, 2021.

23. Where can I find more information on the Capital Improvements Funds?

- No, you will not need to establish unique bank accounts and/or utilize bank accounts that cannot gain interest but an entity is allowed to retain interest if accrued. See Treasury FAQ 10.3 for more information on this topic.

24. What is the guidance for what are allowable grants to local non profits?

- The most current information available is contained on the U.S. Department of Treasury's Capital Projects Fund website at <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/capital-projects-fund>.
- As of the May 10, 2021 update, it is anticipated that **additional guidance and application will be available this summer.**
- At this time the most useful resource is the Frequently Asked Question (<https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>) document issued by Treasury on May 10, 2021 and updated on May 27, 2021.

Appendix:

Date Updated	Questions Updated	Content Updated
5/17/21	NEU questions A-F, general local government questions 1-14	Questions specific to NEU listed as letters, general local government questions as numbers
6/1/21	NEU questions G-H, general local government questions 1, 3, 5, 6 7, 15-24	New questions added following release of updated Treasury guidance, updates to questions 1, 3, 5, 6, 7, and 15-24
6/7/21	NEU questions I-K	New questions added following NEU webinar 6/3